IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 9007 of 2003

Between:

1 S. Rathamma, W/o. Venkanna, house-wife,
2 S. Nageshwara Rao, S/o. Venkanna,
3 S. Nagabhushanam, S/o. Venkanna
4 S. Sitaramaiah, S/o. Venkanna
5 S. Peddi Raja, S/o. Venkanna
6 S. Narayana Swamy, S/o. Venkanna

All are r/o. Valluru Village, Ganapavaram Mandal,
West Godavari District

.... PETITIONERS.

AND

1 The Executive Officer, Kapileswara Swamy Temple
Valluru Village, Ganapavaram Mandal,
West Godavari District
2 The Asst. Commissioner of Endowments
West Godavari District at Eluru.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of certiorari calling for the records relating to the impugned proceedings issued by the first respondent the person-in-management of Swamy Temple, Valluru Village, Ganapavaram Mandal, W.G. District, by his notices No. 07/2003, dated 21-04-2003 directing the petitioners to handover possession of lands leased in their favour within 30 days of the receipt of the notice relating to the schedule mentioned lands in Sy.No. 67, admeasuring an extent 5 acres 38 cents belong to the subject Devastanam cultivated by the 1st petitioner an extent of 89 cents, 2nd petitioner an extent of 89 cents and 3rd petitioner is cultivating 89 cents and 4th petitioner an extent of 89 cents, 5th petitioner an extent of 89 cents and 6th petitioner an extent of 89 cents of land and declare the same as illegal, arbitrary and the petitioner herein prays that the same may be quashed

Counsel for the Petitioners: MR.A.RAJASEKHAR REDDY,

Counsel for the Respondent No.1:MR. METTA CHANDRA SEKHARA RAO,

Standing Counsel.

Counsel for the Respondent No.2: G.P. for Endowments.

The Court made the following :

ORDER:

The counsel for the petitioner as well as the respondents submitted that the writ petition can be disposed of in the light of the order passed by this Court in W.P.No.10573 of 2003.

2. This Court disposed of the W.P.No.10573 of 2003 with the following directions:

a. If the petitioner claims the status of a landless poor, it shall be open to him to approach the concerned Assistant Commissioner of Endowments, with an appropriate application, within two weeks from the date on which the copy of the order is furnished to him by the court. On such application being made, the concerned Assistant Commissioner shall decide the matter in accordance with the guidelines and conditions laid down in the explanation to Section 82 of the Act 30/87, duly putting the tenant as well as the temple on notice; and pass appropriate orders within one month from the date of presentation of the application. This exercise shall not be necessary, if the status of such tenants were already decided.

b. If the tenant is declared as landless poor as defined in the explanation to Section 82, through an order by the Assistant Commissioner of Endowments, such tenant shall be entitled to be continued as lessee at the rates fixed by verification or by holding auction; for an extent of land, not exceeding the limits stipulated in the explanation. Except where such person emerges as the highest bidder, he shall be liable to surrender the remaining land.

c. The question of sale of any land belonging to temple would arise, if only, a decision in that regard is taken by the concerned Trust Board for the genuine needs of the temple and subject to approval by the authorities prescribed under the Act. If the decision to sell any land is taken in the manner stipulated above in the interests of the concerned temple, the right of the tenant declared as landless poor to purchase such land, as

contemplated in the rules issued in G.O.Ms.No.379, dated 11-03-2003 would arise, for an extent not exceeding the limits stipulated under the explanation to Section 82.

3. In view of the same, this writ petition is also disposed of with the similar directions pending determination of the status of the tenant by the Assistant Commissioner, no steps shall be taken to dispossess the tenant. The concerned authority shall fix the rate of lease for the land by collecting necessary information or by inviting bids. The figure so arrived at shall hold good for the current agricultural season. In case the existing tenant is not agreeable to pay such amount, it shall be open to the authorities of the temple as well as the Endowments Department to resume the land and put it to auction. Even if any auctions are held by the time the orders are communicated, the same shall not be confirmed till the exercise indicated above is completed. No costs.

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A.GOPAL REDDY,J.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER.

12th July, 2004.

Chvn.

To

1 The Executive Officer, Kapileswara Swamy Temple
Valluru Village, Ganapavaram Mandal,

West Godavari District

2 The Asst. Commissioner of Endowments
West Godavari District at Eluru.

3. Two C.Cs. to the G.P. forl Endowments, High Court of A.P., (OUT).

4. Two C.D.copies.